

Introduced by Senator Kuehl

February 19, 2004

An act to add Title 7.15 (commencing with Section 66550) to the Government Code, relating to regional planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as introduced, Kuehl. Southern California Military Greenway Commission.

(1) The Planning and Zoning Law requires the land use element to consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land or other territory adjacent to those military facilities, or underlying designated military aviation routes and airspace. Existing law, with respect to the open-space element, defines open-space land to include areas adjacent to military installations, military training routes, and restricted airspace.

The bill would create the Southern California Military Greenway Commission comprised of Los Angeles, Ventura, Kern, and Kings Counties and consisting of 17 specified voting members. The bill would authorize the commission, in consultation with appropriate state agencies and exofficio members and advisory committees, to promote, facilitate, and administer the acquisition of voluntary private and public conservation easements or other voluntary transfers of fee or lesser interests in real property.

The bill would require the commission, among other things, to review proposed land uses within member counties that may affect military flight paths, as specified, and would require these counties, upon receipt of notification by the commission, to attempt to resolve



with the aid of the commission, any identified issues of proposed land use that are inconsistent with the purposes for which the commission is established. By increasing the duties of local planning officials, the bill would create a state-mandated local program.

The bill would also authorize the commission to apply for and accept federal grants or other federal funds and receive gifts, donations, rents, royalties, state funds derived from bond sales, the proceeds of taxes or funds from any other state revenue sources, or any other financial support from public or private sources.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Title 7.15 (commencing with Section 66550) is
2 added to the Government Code, to read:

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4 TITLE 7.15. THE SOUTHERN CALIFORNIA MILITARY
5 GREENWAY COMMISSION

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7 CHAPTER 1. FINDINGS AND DECLARATIONS OF POLICY

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9 66550. The Legislature finds and declares all of the
10 following:

11 (a) In 2002, the Legislature found that California contains an
12 integrated system of military installations and special use airspace,
13 connected by low-level flight corridors, that supports a key
14 foundation for our nation's security. This integrated system
15 provides for the training of military personnel, as well as the



1 research, development, testing, and evaluation of military
2 hardware. These findings are contained in Section 1 of Chapter
3 971 of the Statutes of 2002 (Senate Bill 1468).

4 (b) The military training routes that form the linkages of this
5 integrated system are under considerable pressure from urban and
6 other development in key portions of southern California. These
7 development issues have arisen in the following two states where
8 a significant portion of those states' economic activity comes from
9 military air installations:

10 (1) The State of Florida has created the "Northwest Florida
11 Greenway" program to protect open space below military flight
12 paths. According to the Florida Department of Environmental
13 Quality, "The Northwest Florida Greenway" establishes a
14 750,000 acre, 100-mile corridor, which follows the flight path of
15 military aircraft on training exercises. That particular greenway is
16 intended to preserve environmentally sensitive areas, sustain
17 existing military lands and airspace, maintain the economic
18 viability of forest lands, and provide recreation.

19 Bush stated, "Florida is among the first in the nation to join
20 forces with the Department of Defense to increase security for
21 important military installations while at the same time protecting
22 valuable natural resources. This groundbreaking partnership
23 affirms Florida's resolute commitment to the environment and our
24 nation's military."

25 (2) The State of Texas has also recognized the importance of
26 protecting military training routes. In 2003, legislation signed by
27 the Texas Governor required that open-space elements include a
28 restricted airspace element that creates buffer zones, if needed,
29 between the defense base and the defense community, and a
30 military training route element that identifies existing routes and
31 proposes plans for additional routes, if needed.

32 The following language from legislation adopted in Texas
33 establishes a compelling argument for California to consider land
34 use options that work to preserve military airspace flightpaths: "If
35 a defense community determines that an ordinance, rule, or plan
36 proposed by the community may impact a defense base or the
37 military exercise or training activities connected to the base, the
38 defense community shall seek comments and analysis from the
39 defense base authorities concerning the compatibility of the
40 proposed ordinance, rule, or plan with base operations. The



1 defense community shall consider and analyze the comments and
2 analysis before making a final determination relating to the
3 proposed ordinance, rule, or plan.”

4 (c) Long-term, anticipatory measures by Texas and Florida,
5 together with the significant development pressures existing
6 adjacent to, and underlying California military flight path training
7 areas, may disadvantage California in terms of maintaining
8 military bases and contracts within the state. The Legislature is
9 concerned about the possible closure or relocation of military
10 missions outside the state and the possibility that other states enjoy
11 an advantage because of their long-term programs to protect
12 military training.

13 (d) The Defense Department’s proposed Base Realignment and
14 Closure (BRAC) criteria has specific relevance to the issue of
15 long-term programs to protect military training in California.
16 Those criteria state that consideration will be given to “the
17 availability and condition of land, facilities, and associated
18 airspace (including training areas suitable for maneuver by
19 ground, naval, or air forces throughout a diversity of climate and
20 terrain areas and staging areas for the use of the Armed Forces in
21 homeland defense missions) at both existing and potential
22 receiving locations.” It is therefore necessary to create a program
23 to provide a level of protection to military airspace similar to the
24 programs in Florida and Texas.

25 (e) The Environmental Action Plan prepared by the
26 Governor’s Environmental Policy Task Force recognizes, as do
27 the States of Florida and Texas with respect to their land uses, that
28 “the military is a key sector of the California economy and
29 environmental stewardship, and California open space resources
30 are vital to the military’s national security mission. In evaluating
31 alternatives for California’s future, an evaluation should consider
32 how a land use pattern will impact resources necessary for the
33 military’s national security mission. These include preservation of
34 California’s rural landscape and other open spaces.” In amending
35 Section 65302 of the Government Code by the enactment of
36 Chapter 971 of the Statutes of 2002, the Legislature found that
37 direct military expenditures in California amount to nearly \$30
38 billion annually and that protection of this integrated system of
39 military installations and special use airspace is in the public
40 interest.



(f) Kern, Kings, Los Angeles, and Ventura Counties all contain major military installations highly dependent on the existence of this integrated system of military installations and military training routes. Each of these counties has located all or partially within its boundaries major military airfields and additional research, development, test, and evaluation facilities for aircraft and airborne weapons systems. These facilities include, but are not limited to, Edwards Air Force Base, China Lake Naval Air Weapons Station, Lemoore Naval Air Station, and Point Mugu Naval Air Station. According to the Department of the Navy, in a letter from Rear Admiral J.L. Betancourt, Commander of the Navy Region Southwest, headquartered in San Diego and sent to then Governor-elect Arnold Schwarzenegger on October 21, 2003, these and similar facilities “are essential to ongoing operations” and are “crucial to maintaining highly perishable pilot skills necessary for safe execution ... of a combat mission.”

(g) Direct military spending in Ventura County was \$1.148 billion and included 11,203 military and civilian jobs. The Legislature finds that the direct military spending in Kings County was 13.5 percent of the county’s total personal income, and civilian and military jobs were 15.2 percent of the total number of jobs in the county. One in six jobs in Kings County is therefore directly attributable to the military. In both of these counties consideration of economic multipliers makes the military spending even more substantial.

(h) Land use decisions made in other jurisdictions that would affect the ability of the military to use military training routes and airspace may result in direct threats to the long-term viability of military installations in Kern, Kings, Los Angeles, and Ventura Counties. The Legislature therefore finds that the creation of a Southern California Military Greenway Commission that will plan and provide oversight of certain land use decisions is necessary while maintaining, to the maximum extent feasible, county control over land use decisions in each of the counties comprising the commission.

CHAPTER 2. THE COMPOSITION OF THE COMMISSION

66555. (a) The Southern California Military Greenway Commission is hereby created comprising Los Angeles, Ventura,

1 Kern, and Kings Counties and consisting of 17 voting members,
2 as follows:

3 (1) One member of the board of supervisors selected from each
4 of the four counties comprising the commission.

5 (2) One elected city council member from each county selected
6 by city selection committees from regional and area councils of
7 government.

8 (3) The Director of the Office of Planning and Research, or a
9 designee.

10 (4) The Director of the California Military Department, or a
11 designee.

12 (5) The Director of the California Department of
13 Transportation, or a designee.

14 (6) The Director of the Office of Military Support, its
15 successor, or a designee.

16 (7) The Secretary of Resources, or a designee.

17 (8) Two members of the public appointed by the Governor who
18 shall represent the military's interest in sustaining the operation of
19 Department of Defense facilities in southern California.

20 (9) One member of the public appointed by the Senate
21 Committee on Rules who shall represent the interests supportive
22 of maintaining open space below military flight paths in southern
23 California.

24 (10) One member of the public appointed by the Speaker of the
25 Assembly who shall represent the nonmotorized recreational
26 interests of the public on land below military flight paths in
27 southern California.

28 (b) Exofficio nonvoting members of the commission shall
29 include three representatives of the Department of Defense, or
30 their designees, each of whom shall serve a four-year term and
31 each of whom may be reappointed.

32 66556. The term of office of the members shall be for four
33 years. Vacancies shall be filled by the appointing authority within
34 30 days of the vacancy. Nonattendance by a member at two
35 consecutive regularly scheduled meetings shall create a vacancy.

36 66557. (a) Members shall serve without compensation,
37 except for per diem.

38 (b) All members of the commission are subject to Title 9
39 (commencing with Section 81000).

1 66558. The commission shall elect from its own members a
2 chairperson and vice chairperson whose terms of office shall be
3 two years and who may be reelected. If a vacancy occurs in either
4 office, the commission shall fill the vacancy for the expired term.

5 66559. (a) The commission shall meet at least quarterly. The
6 time and place of the first meeting shall be chosen by the Governor.
7 Thereafter, the commission shall establish its own schedule and
8 place of meeting. However, all meetings shall occur in one of the
9 counties that comprise the commission.

10 (b) All commission meetings shall be open to the public, as
11 required by law.

12 (c) A majority of the voting members of the commission shall
13 constitute a quorum for the transaction of the business of the
14 commission. A majority vote of the voting members present shall
15 be required to take action with respect to any matter unless
16 otherwise specified in this section. The vote of each member shall
17 be individually recorded.

18 (d) The commission shall adopt its own rules, regulations, and
19 procedures necessary for its organization and operation.

20 66560. The commission may appoint military, open-space,
21 recreational, or other advisory committees for the purpose of
22 providing the commission with timely comments, advice, and
23 information. The commission may appoint committees from its
24 own membership. It may seek advice and recommendations from
25 advisory committees appointed by local governments which are
26 involved in subject matters affecting the purpose for which the
27 commission is established.

28 66561. The Office of Planning and Research shall maintain
29 the public records of the commission and shall make those records
30 available to the public consistent with state law.

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32 CHAPTER 3. POWERS AND DUTIES OF THE COMMISSION
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34 66565. In consultation with appropriate state agencies, the
35 commission may promote, facilitate, and administer the
36 acquisition of voluntary private and public conservation
37 easements or other voluntary transfers of fee or lesser interests in
38 real property. The commission shall not have the power of eminent
39 domain unless requested by the landowner.

1 66566. The commission may apply for and accept federal
2 grants or other federal funds and receive gifts, donations, rents,
3 royalties, state funds derived from bond sales, the proceeds of
4 taxes or funds from any other state revenue sources, or any other
5 financial support from public or private sources.

6 66567. (a) In consultation with the ex officio members and
7 any advisory committees, the commission shall review proposed
8 land uses within the counties that comprise the commission that
9 potentially affect military flight paths. The commission shall
10 inform any member county of proposed projects that may
11 significantly and adversely diminish the effectiveness of the
12 military's flight paths and the necessary commitment of open
13 space beneath those flight paths or appropriate buffer zones that
14 are necessary to maintain those flight paths.

15 (b) A county, upon receipt of notification by the commission of
16 a proposed land use that is determined to be inconsistent with the
17 purposes for which the commission is established, shall attempt to
18 resolve any and all identified issues with the commission. The
19 commission shall attempt to resolve these issues with due regard
20 for the primary land use planning responsibilities of local
21 governments.

22 (c) This title does not confer any permitting authority upon the
23 commission.

24 66568. The commission, with assistance from the
25 Department of Defense, shall make available to the public in a
26 format that is understandable and accessible, sufficient
27 information about the exact locations of military flight paths and
28 the land under those flight paths, along with any reasonably
29 necessary buffer zones. The commission, with the assistance of the
30 Department of Defense, shall prepare maps for all such flight paths
31 that are no smaller in scale than 1:24,000, or 7.5 minute maps, in
32 which one inch on the map represents approximately 2,000 feet.

33 SEC. 2. Notwithstanding Section 17610 of the Government
34 Code, if the Commission on State Mandates determines that this
35 act contains costs mandated by the state, reimbursement to local
36 agencies and school districts for those costs shall be made pursuant
37 to Part 7 (commencing with Section 17500) of Division 4 of Title
38 2 of the Government Code. If the statewide cost of the claim for
39 reimbursement does not exceed one million dollars (\$1,000,000),

- 1 reimbursement shall be made from the State Mandates Claims
- 2 Fund.

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